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January 4, 2008

Mr. Ben Grumbles, Assistant Administrator
U.S. Environmental Protection Agency
Docket ID No.EPA-HQ-OW-2007-1126
EPA Docket Center (EPA/DC)
Water Docket, MC 2822T
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Comment on Draft Action Plan 2008 for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico

Dear Mr. Grumbles:

We are writing to provide comments on the **Draft Action Plan 2008 for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico (Plan).** This issue is important to Minnesota because as the headwaters state of the Mississippi River, we are committed to a healthy Mississippi River ecosystem that benefits Minnesota, as well as our downstream neighbors. As such, it is our view that the Plan needs to responsibly reflect broadly shared goals for environmental protection in the Gulf of Mexico, as well as throughout the Mississippi Basin, and that the strategies that are recommended should responsively echo a broad consensus of the stakeholders. Some of the primary principles that we have advocated in our participation on the Task Force have been (1) the establishment of clear goals and outcomes that are supported by good science getting at the root of the problem; (2) reasonable time frames for implementation as well as evaluation; (3) flexibility for states to develop and use a variety of functionally equivalent approaches; (4) ongoing monitoring to enhance knowledge of the problem and solutions; and (5) increased resources to carry out the Plan.

We believe these principles continue to be useful in meeting the mandate of Section 103 of P.L. 108-456, "The Harmful Algal Bloom and Hypoxia Amendments Act of 2004," which requires the President, in conjunction with the chief executive officers of the states, to develop and submit to Congress a plan, based on the integrated assessment for reducing, mitigating and controlling hypoxia in the northern Gulf of Mexico. In developing the Plan, the President is to consult with state, Indian tribe and local government, academic, agricultural, industry and environmental groups and representatives. The Plan is to include incentive-based partnership approaches, and shall also include the social and economic costs and benefits of the measures for reducing, mitigating and controlling hypoxia.

As responsibility to address this issue moves from the Task Force to the federal government agencies and ultimately to the states, there is a need to engage stakeholders representing interest groups as well as local citizens and officials. While there has been improved access of stakeholder groups to the process since the original plan was developed in 2000, the burden for states to involve stakeholders in the implementation phase will remain significant. Time and resources for this important task should be included in the final Plan.

It has been beneficial for states such as Minnesota that have participated in the Task Force in understanding the issues and helping shape the Plan. We have remained committed to that participation. We are generally supportive of the Plan, but would urge consideration of the following issues and points.

1. The need for clear goals backed up by good science

The importance of the environmental and economic conditions within the basin all must be recognized within the Plan's final goal statement. The "Within Basin Goal" and the "Quality of Life Goal" are appropriate and should be included in the final listing of goals.

Because the Mississippi Watershed is so large and the transport and fate mechanisms are complex, it will be necessary that the goals, as well as the action strategies, not be seen as cast in stone and that an adaptive management framework, underscored by ongoing scientific information gathering, continues to underpin the Plan. Additional scientific assessment and research will be critical to improved understanding of the problem and identifying effective solutions. While the Plan needs to have an emphasis on the financial resources needed to implement a voluntary adoption strategy, progress must not be measured by dollars spent. The Plan should emphasize that the money spent through programs like Environmental Quality Incentive Program, Conservation Reserve Program, Wetlands Reserve Program, Clean Water Act Section 319 (319), etc. will only be effective if they lead to the desired environmental outcomes of the long-term goals that are adopted.

2. State delivery of the Plan through existing mechanisms with adequate federal funding

We believe that there are a number of existing programs at both the state and federal level that can be used to address this issue. We want to emphasize that the Plan should not overlay yet another program on states without first looking at how existing programs can be used to address hypoxia in the northern Gulf. We also want to ensure that the work on this issue does not take resources from existing state programs and priorities. In particular, the state of Minnesota launched a basin planning effort almost a decade ago. This effort provides a framework for delivering both the nonpoint source and point source programs through a geographic approach. This effort is effectively identifying and resolving priority issues within the state of Minnesota and should not be set aside to address this emerging national issue. On the other hand, if timing is flexible and additional resources are brought to these approaches, a win-win can occur in addressing local, state, and national priorities. We want to ensure that time lines set by the Plan will be compatible with various states' watershed and basin programs. While the

watersheds/basins that may contribute to hypoxia in the northern Gulf are high priority, so are other waters of the state, such as Lake Superior and the Red River of the North, both international waters.

One concern we would have as a state focusing on a national problem, would be that all states that contribute to the problem do their share to resolve the problem. If, for example, we decided to move forward with a program to address this issue in Minnesota, we would not want to be penalized if others did not move forward. We would need to figure out a level of success that we would try to attain that would be our share. Although we know there are limits to understanding the exact numbers, it is possible to make estimates.

States are also in the process of accelerating their Total Maximum Daily Load (TMDL) programs. Because Minnesota does not currently include a water quality standard for nitrogen, other than ammonia or nitrate nitrogen for designated drinking water in our state standards, it is not clear how this program could or should be brought to bear on the hypoxia problem. Unless additional funding is targeted for nutrient management, it is likely that this issue will compete with TMDL listings for priority in existing programs until nutrient criteria is established. Several stakeholders have indicated a concern with the application of the TMDL process to resolve the hypoxia problem. With adequate funding and coordination, it would be possible to adapt certain elements of methodology embedded in the Watershed Management Program and to make significant progress in reducing nitrogen flux to the river, while minimizing the most controversial aspects as well as the perceived legal implications that currently are associated with TMDLs.

Finally, we feel strongly that adequate resources must be dedicated to implementation of this Plan, rather than robbing from currently inadequate resources. The Plan suggests that State Revolving Fund and 319 monies be targeted toward the work outlined in the Plan. These funds are currently supporting significant point and nonpoint remediation and protection activities, which should not be stopped in order to support the Plan. At the same time we are trying to address this national priority, the state of Minnesota has been advised by the federal government that 319 funds could be targeted toward activities in the Great Lakes, toward TMDLs, toward lakes activities, and toward wetlands. While it is true that some of these efforts will go towards helping reduce nutrients that contribute to the hypoxia problem, we think this effort will require much greater effort than current funding supports. The state of Minnesota has believed that funding nonpoint source programs is critical, and has a state grant program that provides funding for nonpoint source programs in addition to 319. Each year we receive an increasing number of excellent applications that we are unable to support. The federal government must provide additional adequate funding rather than diverting existing funding if states are to successfully implement this national Plan.

3. Voluntary adoption by farmers and landowners with adequate financial incentives and technical assistance

Farmers are currently being engaged through state nonpoint source programs to identify activities that are impacting off site water quality. These programs help farmers plan holistically and implement best management practices that are both effective and reasonable. Because this issue manifests itself a great distance from Midwest farmers, it is important that an outstanding job of education be provided to our farmers. Adequate incentives and technical assistance must be provided to offset the perceived risks inherent in adopting best management practices for nutrient source reduction, as well as to induce land use and management changes for increased watershed denitrification.

4. Flexibility for adaptive management

The integrated assessment identifies large areas such as the Upper Mississippi multi-state sub-basin contribution to the Gulf hypoxia problem. As management decisions move more to the states and locally, it will be important that additional adequate resources and technical support is provided to further assess, plan, and manage nutrient reductions at a finer scale, such as the major watershed and basin level within each state. We do not believe it is critical to completely address issues at this finer scale prior to beginning action on the hypoxia problem, but it is necessary that the policies and approaches that are foundational to this effort are designed to accommodate this information as it is obtained. Ongoing planning at all scales should be scheduled to take advantage of the best information that becomes available.

Finally, we have some concerns about some of the timing and scheduling provided in the Plan. We make the following suggestions, which we believe would provide a better overall schedule for implementation.

- **Development of Nutrient Standards**. The development of nutrient standards is not necessary to begin action in a voluntary framework; it is a necessary precursor to the ultimate completion of nutrient reduction strategies. Standard development should be considered for inclusion as an implementation action with an associated time line.

- **Development of Nutrient Reduction Strategies.** The development of nutrient reduction strategies is a key element if not *the* key element of the Plan, as other sections reference this action. The development of watershed specific nutrient reduction strategies requires detailed monitoring of receiving waters and tributaries and modeling to determine the effectiveness of best management practices. As we have learned through the Minnesota River Assessment Project and Minnesota River Basin Management, and Clean Water Partnership river projects, this is a very important and effective, but resource intensive and time-consuming task. Relying on statewide strategies alone is not likely to provide efficient results; while rushing the development of watershed specific reduction strategies would be difficult, if not

impossible, to achieve. Watersheds such as the Minnesota River can provide a jump-start by building on the foundation work that has already occurred. In the Minnesota River Watershed, a minimum of another year is required for this effort, even using available data and models as proposed. Other watersheds will take much longer with start-up resources needed.

- **Monitoring.** The monitoring system should be expanded as soon as possible to assist in the development of the nutrient action strategies. At a minimum, the timing of this activity should coincide with reduction strategy development, and preferably precede it.

The state of Minnesota does support the holistic/basin approach for addressing hypoxia in the northern Gulf of Mexico. We are hopeful that our comments will help ensure that the updated Plan will be implemented at the local and state level, with the support of adequate federal funds.

Sincerely,

Brad Moore
Commissioner

BM/WA:bt